



FILED
7-19-16
04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Blue & Gold Fleet, L.P.)
(VCC-77), For Authorization to Adjust)
Fares on Its Vessel Common Carrier)
Service on San Francisco Bay Between)
Tiburon on the One Hand and Authorized)
Points in San Francisco on the Other Hand)
_____)

Application No. 15-08-009
(Filed August 10, 2015)

**JOINT PREHEARING CONFERENCE STATEMENT
FOR PREHEARING CONFERENCE SET FOR JULY 26, 2016**

Date: July 19, 2016

Daniel F. Reidy, Esq.
LAW OFFICES OF DANIEL F. REIDY
270 Blair Mine Road (P.O. Box 760)
Angels Camp, CA 95222
Telephone: (209) 736-0712
Fax: (209) 736-0714
Email: dfreidy@pacbell.net
Attorney for Applicant Blue & Gold Fleet, L.P.

Benjamin Stock
Town Attorney
Tiburon Town Hall
1505 Tiburon Blvd.
Tiburon, CA 94920
Email: bstock@bwslaw.com
Attorney for Protestant Town of Tiburon

Kimon Manolius
HANSON BRIDGETT LLP
425 Market Street, 26th Floor
San Francisco, CA 94105
Telephone: (415) 777-3200
Facsimile: (415) 541-9366
E-mail: kmanolius@hansonbridgett.com
General Counsel for Respondent
Golden Gate Bridge, Highway and
Transportation District

William M. Lukens, Esq.
Lukens Law Group
1550 Tiburon Blvd., Suite A
Belvedere Tiburon, CA 94920
(P.O. Box 1014) 3000
Telephone: (415) 433-3000
E-mail: wluken@lukenslaw.com
Protestant on behalf of Tiburon Ferry
Commuter Ratepayers

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Blue & Gold Fleet, L.P.)	
(VCC-77), For Authorization to Adjust)	
Fares on Its Vessel Common Carrier)	
Service on San Francisco Bay Between)	Application No. 15-08-009
Tiburon on the One Hand and Authorized)	(Filed August 10, 2015)
Points in San Francisco on the Other Hand)	
_____)	

**JOINT PREHEARING CONFERENCE STATEMENT
FOR PREHEARING CONFERENCE SET FOR JULY 26, 2016**

The attorneys for the Applicant Blue and Gold Fleet, L.P., Protestant Town of Tiburon, Protestant Tiburon Ferry Commuter Ratepayers, and Respondent Golden Gate Bridge, Highway and Transportation District hereby make this Joint Prehearing Conference Statement in response to the Ruling issued on April 4, 2016 Administrative Law Judge Adeniyi A. Ayoade entitled: “Ruling Granting Joint Request to Continue; Setting Prehearing Conference; and Directing Parties to Meet and Confer, and Provide Information.” The next Prehearing Conference is set for July 26, 2016, at 10:00 a.m., in the Commission’s Courtroom in the State Office Building, 505 Van Ness Avenue, San Francisco, California.

A. SUMMARY OVERVIEW OF MEET AND CONFER SESSIONS OF PARTIES.

1. Settlement Discussions between Commuter Ratepayers and Blue & Gold Fleet.

Following the March 23, 2016 Prehearing Conference, William Lukens on behalf of the Commuter Ratepayers and Carolyn Horgan, President of Blue & Gold Fleet, conferred about the length of time that Blue & Gold Fleet would honor unused tickets in the commuter ticket books on its other Tiburon – San Francisco service runs after the Golden Gate Bridge District takes over the Tiburon – San Francisco commuter hours service runs, and Blue & Gold Fleet management agreed that Blue & Gold Fleet would honor unused tickets in

commuter ticket books purchased from Blue & Gold Fleet for 180 days after the date that the Golden Gate Bridge District takes over the commuter service. Subsequently William Lukens and Blue & Gold Fleet's attorney by emails and telephone calls on March 29 and March 30, 2016 confirmed the stipulation reached between these two parties that the Commuter Ratepayers were satisfied with Blue & Gold Fleet's commitment to honor unused tickets in commuter ticket books purchased from Blue & Gold Fleet for 180 days after the date that the Golden Gate Bridge District takes over the commuter hours service runs and agreed that this stipulation should be included in the next Prehearing Conference Statement.

2. All Parties Conference Call on June 17, 2016.

On June 17, 2016, attorneys for Blue & Gold Fleet, the Town of Tiburon, the Tiburon Ferry Commuter Ratepayers, and the Golden Gate Bridge District conducted a Conference Call to check on the status of any outstanding issues that would affect the Golden Gate Bridge District's decision to take over Blue & Gold Fleet's Tiburon – San Francisco commuter hours service runs.

3. Further Meet and Confer Communications.

Counsel for Applicant Blue & Gold Fleet and for Protestant Town of Tiburon and for the Golden Gate Bridge District had further communications by email and telephone conference to discuss progress made on resolving issues needed for the Golden Gate Bridge District to finalize its action to take over the commuter hours service between Tiburon and San Francisco.

B. JOINT STATEMENT ADDRESSING MATTERS LISTED IN SECTION 4.1 OF ADMINISTRATIVE LAW JUDGE AYOADE'S NOVEMBER 16, 2016 RULING.

1. Identification of the Specific Factual and Legal Issues that the Commission Needs to Decide in This Case.

(a). **Scope of Authorization Requested of the Commission.** Attorneys for the parties hereby jointly reaffirm the recommendation of the parties stated in the December 10, 2016 Joint Prehearing Conference Statement that the description of the scope of the Applicant's requested authorizations stated in the **Background** section of the November 16,

2015 Ruling on pages 1 and 2 should be revised to clarify that Blue & Gold Fleet is requesting authorization to adjust passenger fares on its vessel common carrier service on San Francisco Bay between Tiburon and San Francisco by deleting the Commuters (20 tickets) line item, conditioned upon and effective only upon the assumption of the commuter hours service on its Tiburon/SF Service by the Golden Gate Bridge Highway and Transportation District (the “Golden Gate Bridge District” hereinafter). Commuter hours service is not a specific authorization or requirement in Blue & Gold Fleet’s Certificate of Public Convenience and Necessity, and Blue & Gold Fleet is not requesting authorization from the Commission to relinquish its commuter hours service on its Tiburon/SF Service to the Golden Gate Bridge District.

(b). **Updating the Passenger Fares on Blue & Gold Fleet’s Tiburon/SF Service Will be in the Public Interest.** When the Golden Gate Bridge District takes over the commuter hours service between Tiburon and San Francisco, it will be in the public interest for the persons intending to be passengers on Blue & Gold Fleet’s service routes to be informed that the book of 20 Commuter discount tickets currently listed on Blue & Gold Fleet’s Tariff will no longer be available for sale by Blue & Gold Fleet. Also, it will be in the public interest for persons who purchased books of 20 Commuter discount tickets from Blue & Gold Fleet but did not use them all prior to the takeover of the commuter hours service by the Golden Gate Bridge District to be informed that those discount tickets will be honored by Blue & Gold Fleet on its other midday runs between Tiburon and San Francisco for one hundred and eighty (180) days.

(c). **Commission’s Acknowledgment that the Independence of The Golden Gate Bridge Highway and Transportation District and of its Decision-Making Process has been a Critical Factor for Scheduling in this Proceeding.** Attorneys for the parties hereby jointly reaffirm the acknowledgment and agreement of the parties stated in the December 10, 2016 Joint Prehearing Conference Statement that the Commission does not have jurisdiction over the Golden Gate Bridge District and its transportation programs. According to the Status Update of the Golden Gate Bridge District submitted for filing in this Proceeding on March 8, 2016, the Board of Directors of the Golden Gate Bridge District on February 26, 2016 approved actions relative to assuming Blue & Gold Fleet’s commuter passenger service

between Tiburon and San Francisco, but the commencement of such service was contingent upon the completion of a listed number of items.

Since the March 23, 2016 Prehearing Conference, the parties have continued working together in an attempt to resolve the identified open issues, namely:

(1) Continued negotiations on leasing terms for the Golden Gate Bridge District to use the docking float at Tiburon currently used by Blue & Gold Fleet. No agreement is yet in place.

(2) Completion of Blue & Gold Fleet's planned haul-out of its Tiburon docking float for repairs and maintenance.

(3) Development of a plan and program for the Town of Tiburon and Blue & Gold Fleet to design and make improvements to the existing path of travel on the ferry landing at Tiburon, including the dock and float, in compliance with the Americans with Disabilities Act, that addresses the requirements of the Golden Gate Bridge District to move forward with taking over the commuter hours service between Tiburon and San Francisco. Construction is not expected to start before the end of 2016.

(4) Successful negotiations and agreements with two of the three labor unions representing Blue & Gold Fleet personnel who will transfer to the employment of the Golden Gate Bridge District as part of the planned transfer of the commuter hours service from Blue & Gold Fleet to the Golden Gate Bridge District.

(5) Return of the vessel *MV Mendocino* from repairs outside the Bay Area for availability to the Golden Gate Bridge District's fleet so that the District will have sufficient vessel capacity in its total fleet to take over the commuter hours service between Tiburon and San Francisco.

2. Whether and what material facts are undisputed.

Attorneys for the parties hereby jointly reaffirm the agreement of the parties stated in their December 10, 2016 and March 23, 2016 Joint Prehearing Conference Statements that no material facts are in dispute. The parties agree that the following undisputed facts are material to the Commission's decision on the Application:

(1) Blue & Gold Fleet is a Vessel Common Carrier (VCC-77) authorized by the Commission to carry passengers on vessels on San Francisco Bay.

(2) Blue & Gold Fleet has been providing vessel common carrier service between Tiburon and San Francisco (“Tiburon/SF Service”), including commuter hours service on weekdays, continuously since 1997 when the Commission approved the transfer of assets and routes of Red & White Fleet, Inc. to Blue & Gold Fleet in Decision No. D.97-06-066.

(3) The Commission’s prior authorizations of service for Blue & Gold Fleet include a statement of required minimum service for the Tiburon/SF Service as a minimum of one (1) trip per weekday (Monday through Friday, inclusive, excluding holidays) in each direction. There is no requirement in past Commission decisions nor in Blue & Gold Fleet’s current Tariff for Blue & Gold Fleet to specifically provide service during commute hours on its Tiburon/SF Service.

(4) Blue & Gold Fleet has been offering riders on its Tiburon/SF Service a discount fare for commuters who purchase a book of 20 commuter tickets, and this fare is listed on Blue & Gold Fleet’s Tariff currently on file with the Commission and posted at Blue & Gold Fleet’s docking and ticket-selling facilities and on its website.

(5) The Golden Gate Bridge District currently provides and for many years has provided commuter hours service between Sausalito and San Francisco, and it shares use of the Sausalito docking facility with Blue & Gold Fleet. This long-standing program provides a good model and evidence of the feasibility of the Golden Gate Bridge District sharing use of the Tiburon docking facility with Blue & Gold Fleet without interference with vessel operations or confusion for the public passengers.

(6) Blue & Gold Fleet’s relinquishment of commuter hours service on its Tiburon/SF Service and the takeover of that service by the Golden Gate Bridge District will not require any dredging or construction of new docking facilities in San Francisco Bay.

3. Whether any discovery is needed and the anticipated date such discovery must be completed.

Attorneys for the parties hereby jointly reaffirm the agreement of the parties stated in their December 10, 2016 and March 23, 2016 Joint Prehearing Conference Statements and at the March 26, 2016 Prehearing Conference that no discovery is needed in this Proceeding.

4. Whether evidentiary hearings are needed and, if so, the estimated time/days required for hearing, and the number of potential witnesses that each side intends to call at the hearing.

Attorneys for the parties hereby jointly reaffirm the agreement of the parties stated in their December 10, 2016 and March 23, 2016 Joint Prehearing Conference Statements and at the March 26, 2016 Prehearing Conference that no evidentiary hearings are needed in this Proceeding.

5. Whether public participation hearings are appropriate.

Public consumers interested in the outcome of this Proceeding had an opportunity to express their concerns at the Public Hearing that the Golden Gate Bridge District Board of Directors held in Tiburon at the Tiburon Public Library on the evening of January 21, 2016 to receive public comment on potential changes to the Golden Gate Bridge District's Transit Service on the Tiburon Peninsula, including the assumption of the Tiburon commuter hours passenger ferry service. In addition, the public had an opportunity to comment in response to public notices of the proposal and invitations to the public to make comments by way of newspaper advertisements, posters placed on buses and at the ferry terminals, social media postings on Facebook and Twitter, and by email to customers and community-based organizations within the District's service area. As stated in the Status Update presented for filing herein by the Golden Gate Bridge District on March 8, 2016, twenty-two (22) ferry-related comments were received by the Golden Gate Bridge District, of which seventeen (17) comments were in support of the proposed assumption of the commuter hours passenger ferry service by the District, no comments were in opposition, and five (5) comments expressed neither support nor opposition. Given the extent of public participation already furnished by the Golden Gate Bridge District's decision-making process, the approval of the Board of Directors of the Golden Gate Bridge District to move forward with actions relative to assuming the commuter hours passenger ferry service subject to certain conditions, and the fact that the Golden Gate Bridge District's planned program would not involve significantly less convenient or affordable arrangements for the commuter passengers, the attorneys for the parties herein jointly recommend that it would not be necessary for the Commission to hold its own Public Participation Hearing in Tiburon.

6. **A proposed schedule for resolving this case.**

The attorneys for the parties in this Proceeding jointly and respectfully recommend that this matter is now ripe for resolution without further administrative proceedings. No further hearings or the filing of briefs need to be scheduled before the formulation of a draft Decision approving the requested authority. Instead, the attorneys for the parties jointly offer the following recommended findings and conditions for a draft Decision:

C. **PROPOSED FINDINGS AND CONDITIONS FOR A DRAFT DECISION.**

1. **Draft Findings (in addition to findings based on the six facts listed in Section B.2):**

- (1) Arrangements have been made in the public interest to protect the public passengers who will be commuters on the passenger ferries between Tiburon and San Francisco. When the Golden Gate Bridge District takes over the commuter hours service between Tiburon and San Francisco, it will be in the public interest for the persons intending to be passengers on Blue & Gold Fleet's service routes to be informed that the book of 20 Commuter discount tickets currently listed on Blue & Gold Fleet's Tariff will no longer be available for sale by Blue & Gold Fleet. Also, it will be in the public interest for persons who purchased books of 20 Commuter discount tickets from Blue & Gold Fleet but did not use them all prior to the takeover of the commuter hours service by the Golden Gate Bridge District to be informed that those unused discount tickets will be honored by Blue & Gold Fleet on its other midday runs between Tiburon and San Francisco for one hundred and eighty (180) days.
- (2) It can be seen with certainty that there is no possibility that the granting of this Application for authority to adjust Blue & Gold Fleet's schedule of passenger fares in its Tariff by deleting the line item for commuter fares on its Tiburon/SF Service as requested will have a significant adverse effect upon the physical environment.

2. **Draft Conditions:**

- (1) Authorization for Blue & Gold Fleet to adjust its Tariff as requested shall not be effective until the Golden Gate Bridge District takes over the commuter hours

service between Tiburon and San Francisco, and the authorization granted hereunder to file the amended Tariff shall expire if not exercised within ninety (90) days of the issuance of this Decision.

- (2) Blue & Gold Fleet shall post written notices at its docking and ticket-selling facilities and on its website of the planned transfer of the commuter hours service on its Tiburon/SF Service to the Golden Gate Bridge District for at least ten (10) days prior to the scheduled date of the takeover by the Golden Gate Bridge District.
- (3) Blue & Gold Fleet shall post written notices at its docking and ticket-selling facilities and on its website of the planned removal of the books of 20 commuter discount tickets from its Tariff for its Tiburon/SF Service for at least ten (10) days prior to the scheduled date of the takeover by the Golden Gate Bridge District, and shall also publish notice of these changes in the Ark Newspaper for at least one week prior to the scheduled date of the takeover by the Golden Gate Bridge District.
- (4) Blue & Gold Fleet shall post written notices at its docking and ticket-selling facilities and on its website for at least ten (10) days prior to the scheduled date of the takeover by the Golden Gate Bridge District that Blue & Gold Fleet will honor unused commuter tickets purchased before the transfer of the commuter hours service to the Golden Gate Bridge District on its other midday service runs between Tiburon and San Francisco for one hundred and eighty (180) days following the effective date of the transfer of the commuter hours service to the Golden Gate Bridge District, and it shall also maintain said notice for the one hundred and eighty (180) day period following the effective date of the transfer of the commuter hours service to the Golden Gate Bridge District.

This Joint Prehearing Conference Statement for July 26, 2016 is hereby respectfully submitted this 19th day of July, 2016 by the authorized representatives of the parties below.

/S/ Daniel F. Reidy

Daniel F. Reidy, Esq.
LAW OFFICES OF DANIEL F. REIDY
270 Blair Mine Road (P.O. Box 760)
Angels Camp, CA 95222
Telephone: (209) 736-0712
Fax: (209) 736-0714
Email: dfreidy@pacbell.net
Attorney for Applicant Blue & Gold Fleet, L.P.

/S/ Benjamin Stock

Benjamin Stock
Town Attorney
Tiburon Town Hall
1505 Tiburon Blvd.
Tiburon, CA 94920
Email: bstock@bwslaw.com
Attorney for Protestant Town of Tiburon

/S/ Kimon Manolius

Kimon Manolius
HANSON BRIDGETT LLP
425 Market Street, 26th Floor
San Francisco, CA 94105
Telephone: (415) 777-3200
Facsimile: (415) 541-9366
E-mail: kmanolius@hansonbridgett.com
General Counsel for Respondent
Golden Gate Bridge, Highway and
Transportation District

/S/ William M. Lukens

William M. Lukens, Esq.
Lukens Law Group
1550 Tiburon Blvd., Suite A
Belvedere Tiburon, CA 94920
(P.O. Box 1014) 3000
Telephone: (415) 433-3000
E-mail: wluken@lukenslaw.com
Protestant on behalf of Tiburon Ferry
Commuter Ratepayers